

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPETITIVE PRODUCT PRICES
INBOUND INTERNATIONAL EXPEDITED SERVICES 2
(MC2009-10)

Docket No. CP2013-77

**UNITED STATES POSTAL SERVICE QUARTERLY UPDATE
IN RESPONSE TO ORDER NO. 1822**
(October 1, 2014)

On October 30, 2013, the Commission issued Order No. 1865 in this docket. That Order specified the manner in which updates to the list of countries in Tiers 1a, 1b, and 2 should be presented to the Commission on a quarterly basis. The Postal Service hereby provides the requested information in Attachment 1 under seal.

Based on further review, the Postal Service considers the identification of country names within each tier to consist of commercially sensitive information under Freedom of Information Act (FOIA) Exemption 3 coupled with 39 U.S.C. § 410(c)(2). As such, the Postal Service is filing information identifying the countries assigned to each tier under seal in Attachment 1. The justification for these redactions appears in Attachment 2, Application for Non-Public Treatment. The Postal Service further requests that the Commission adopt conforming changes to the Mail Classification Schedule as proposed in Attachment 3, which remove the public identification of country assignments by tier.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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POSTAL ADMINISTRATIONS ASSIGNED TO EACH TIER OF INBOUND EMS 2

Tier 1a	Tier 1b	Tier 2

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21, the United States Postal Service (Postal Service) hereby applies for non-public treatment of the identification of which country is assigned to each tier within Inbound EMS 2. The Postal Service is transmitting the tiers list to the Postal Regulatory Commission (“Commission”) in accordance with Order No. 1865 granting the Postal Service’s Motion for Reconsideration of Order No. 1822, PRC Docket No. CP2013-77, filed on September 19, 2013. The unredacted tiers list is being filed under seal, while a redacted copy is included as an enclosure to this transmittal. The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.21(c) below.

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, is not required to be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(3); 5 U.S.C. § 552(b)(4). The Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A).¹ Because the

¹ The Commission has indicated that “likely commercial injury” should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law

portions of materials filed non-publicly fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

(2) Identification, including name, phone number, and e-mail address for any third party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;

The Postal Service believes that the postal operators assigned to an Inbound EMS 2 tier are the only third parties with proprietary interests in the tier assignment information. Due to language differences, cultural sensitivities, and intricacies of the Postal Service's relationships with the affected foreign postal operators, the Postal Service proposes that a designated Postal Service employee serve as the point of contact for any notices to the relevant postal operators.² The Postal Service identifies as an appropriate contact person Ms. Haley Eubanks, International Postal Affairs, United States Postal Service. Ms. Eubanks' phone number is (202) 268-4315, and her email address is Haley.N.Eubanks@usps.gov.

In view of the practical difficulties, the Postal Service has not undertaken to inform all affected postal operators about the nature and scope of this filing

enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

² The Postal Service acknowledges that 39 C.F.R. § 3007.21(c)(2) appears to contemplate only situations where a third party's identification is "sensitive" as permitting the designation of a Postal Service employee who shall act as an intermediary for notice purposes. To the extent that the Postal Service's response might be construed as beyond the scope of this exception, the Postal Service respectfully requests a waiver that would allow it to designate a Postal Service employee as the contact person under these circumstances, in light of the practical considerations outlined herein.

and about the ability to address any confidentiality concerns directly with the Commission as provided in 39 C.F.R. § 3007.20(b). To the extent that the Postal Service's filing in the absence of actual notice might be construed as beyond the scope of the Commission's rules, the Postal Service respectfully requests a waiver that would allow it to forgo providing a notice to each postal operator. It is impractical to communicate with dozens of operators about this technical, regulatory matter.

(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;

In Order Nos. 1822 and 1865, the Commission required the Postal Service to identify the Inbound EMS 2 tier assignments for all foreign postal operators with which the Postal Service has an EMS agreement. The Inbound EMS 2 tier list provided with this Application consists of the Postal Service's response to those orders. Furthermore, the Mail Classification Schedule currently maintains this list in a public forum. The Postal Service maintains that the redacted portions of the list, including their inclusion in the MCS, should remain confidential.

(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;

If the information that the Postal Service determined to be protected from disclosure due to its commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it and foreign postal operators would suffer commercial harm. This information is commercially sensitive, and the Postal Service does not believe that it would be disclosed

under good business practices. Competitors could use the information to undermine the Postal Service's position in negotiations, as well as the position of the foreign postal operators whose discount levels and participation in PFP are known. Competitors could also use the identity of the relevant foreign postal operators to target those countries for business to the detriment of the Postal Service. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

(5) At least one specific hypothetical, illustrative example of each alleged harm;

Harm: Foreign postal operators could use the rate and discount tier information obtained from the tier designations of other foreign postal operators to undermine the Postal Service's position in negotiations concerning bilateral EMS charges.

Hypothetical: The rates and discount tier information is disclosed to the public.

Foreign postal operators obtain the information and use it to their advantage in negotiating bilateral EMS charges with the Postal Service in an effort to lower the rates charged for delivery of EMS in the United States.

Harm: Foreign postal operators could use the rate and discount tier information to undermine the position of the foreign postal operators that are extended favorable rates for EMS charges.

Hypothetical: The rates and discount tier information is disclosed to the public.

Foreign postal operators obtain the information and use it to their advantage in negotiating bilateral EMS charges with the foreign postal operators listed in the tiers in an effort to lower the rates charged for delivery of EMS in the those countries. Alternatively, competitors use the pricing information to develop competing products.

Harm: Competitors could use the knowledge that the Postal Service has entered into arrangements for discounted EMS rates with certain foreign postal operators to the Postal Service's detriment when negotiating business arrangements with shippers in those countries.

Hypothetical: The identity of the countries with which the Postal Service has entered into arrangements for discounted EMS rates is released to the Public.

Another expedited delivery service's employee monitors the filing of this information and passes the information along to its sales and marketing functions. The expedited delivery service determines that those countries provide a strategic market for increased competition, and then advertises itself to those countries' postal operators as offering better rates and superior service as compared to the Postal Service.

(6) The extent of protection from public disclosure deemed to be necessary;

The Postal Service maintains that the redacted portions of the tier information filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for international expedited and parcels products (including private sector integrators), as well as their consultants and attorneys. Additionally, the Postal Service believes that, except for foreign postal operators that already have access to this information, actual or potential customers of the Postal Service for products related to inbound EMS and Outbound Express Mail International, or similar products, should not be provided access to the non-public materials. Moreover, this information should be removed from the MCS to prevent public disclosure.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

(8) Any other factors or reasons relevant to support the application.

None.

Conclusion

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.

2515.6 Inbound EMS

2515.6.1 Description

- a. Inbound EMS are Inbound Express Mail services offered pursuant to negotiated service agreements. Inbound EMS service is reliable, high-speed and available from most countries.
- b. Inbound EMS items may contain matter with personal information, partially or wholly handwritten or typewritten matter, or bills or statements of account.
- c. Inbound EMS pieces are sealed against inspection.
- d. Unless otherwise provided by KPG arrangement, there is no service guarantee or postage refund for delay.
- e. Unless covered by a negotiated agreement, indemnity is paid by the country of origin to the sender and it is not reciprocal.
- f. Individual negotiated agreements must comply with the requirements specified in 39 U.S.C. § 3633.
- g. Individual negotiated agreements must be on file with the Commission no less than 15 days prior to their effective date.

2515.6.2 Size and Weight Limitations

	Length	Height	Thickness	Weight
Minimum	none	none	none	See Note 1
Maximum	36 inches			
	79 inches in combined length and girth			

Notes

1. Country-specific restrictions may apply as specified by the originating country.

2515.6.3 Minimum Volume Requirements

	Minimum Volume Requirements
Inbound EMS	none

2515.6.4 Price Categories

The following price categories are available for the product specified in this section:

- Bilateral/Multilateral Agreements

2515.6.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- International Ancillary Services (2615)
 - International Return Receipt (2615.3)
 - Customs Clearance and Delivery Fee (2615.6)

2515.6.6 Prices

Charges are set by bilateral and multilateral agreements based on announcements to the Universal Postal Union International Bureau.

2515.6.7 Products Included in Group

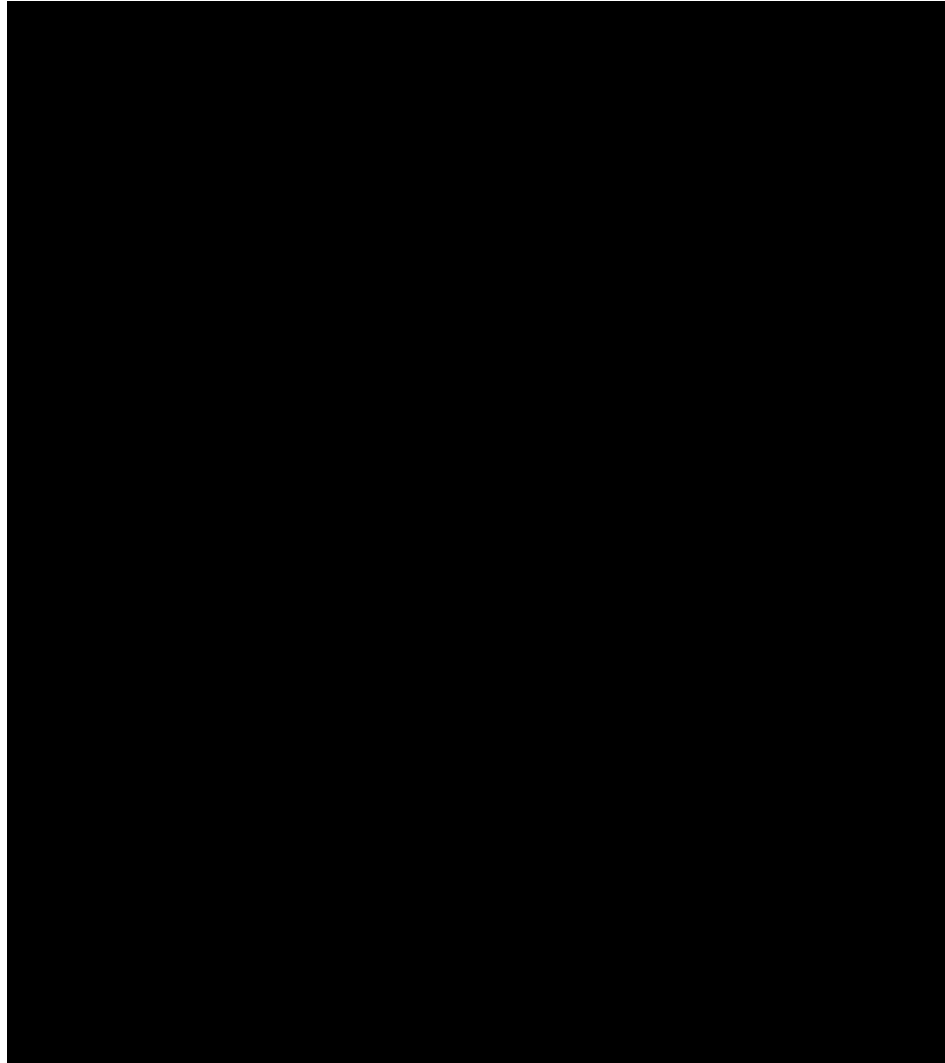
Each product is followed by lists grouping countries into tiers of service for that product.

- Inbound EMS 2
Under EMS Cooperative procedures, destination posts set prices within two pricing tiers. By mutual agreement, reciprocal discounts may be applied to the prices.

Baseline Reference

Docket Nos. MC2009-10 and CP2009-12
PRC Order No. 162, December 31, 2008

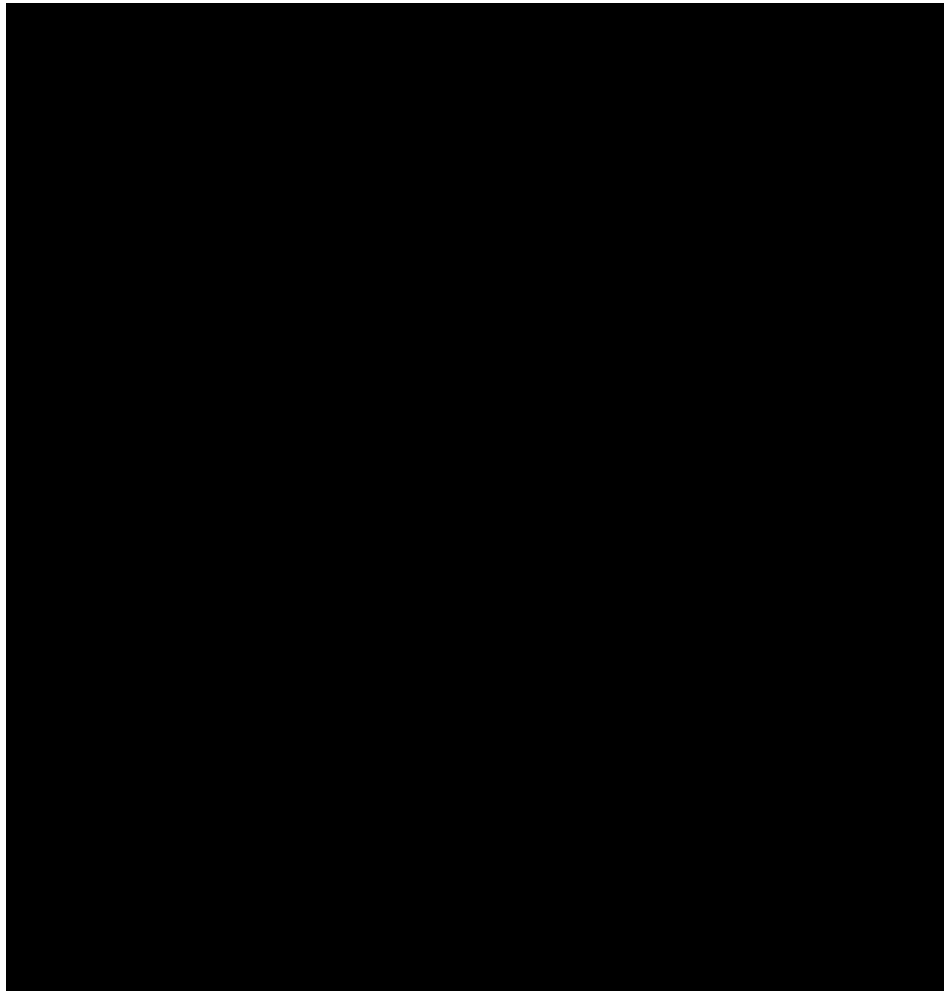
Tier 1a: Pay-For-Performance. Available to EMS Cooperative members that elect to comply with pay-for performance provisions.

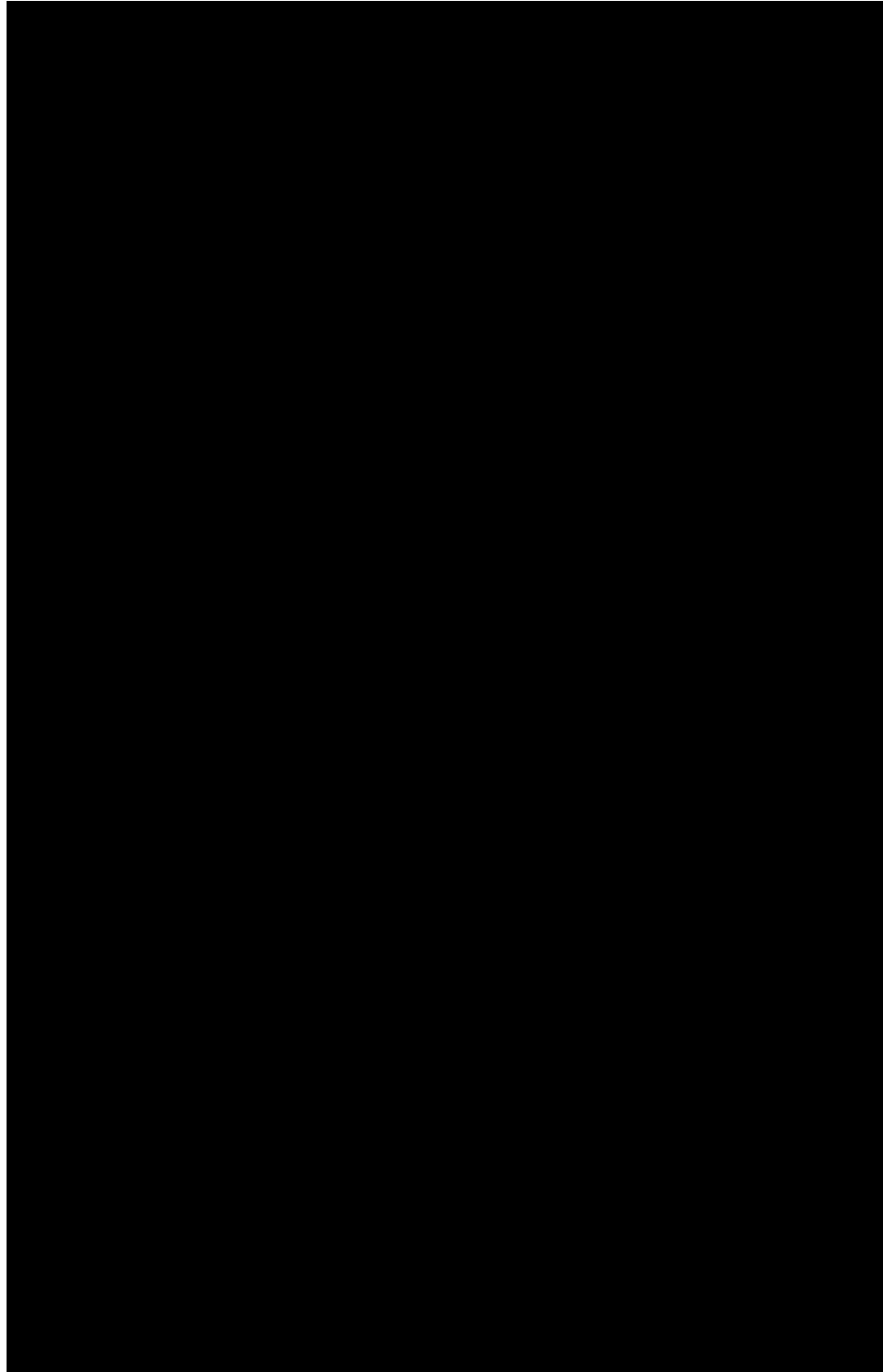


Tier 1b: Enhanced Pay-For-Performance. Available to EMS Cooperative members that elect to comply with pay-for-performance provisions and that make arrangements with the Postal Service to reciprocally discount inbound delivery prices.



Tier 2: All others postal operators that transmit EMS to the United States.





List of postal operators that dispatch Inbound EMS 2 to the United States.

Afghanistan

Latvia

Albania	Lebanon
Algeria	Lesotho
Angola	Liberia
Anguilla	Libya
Antigua and Barbuda	Liechtenstein
Argentina	Lithuania
Armenia	Luxembourg
Aruba	Macao
Azerbaijan	Macedonia
Bahamas	Madagascar
Bangladesh	Malawi
Barbados	Malaysia
Belarus	Maldives
Belgium	Mali
Belize	Malta
Benin	Mauritania
Bermuda	Mauritius
Bhutan	Mexico
Bolivia	Moldova
Bosnia and Herzegovina	Monaco
Botswana	Mongolia
Brazil	Montserrat
Brunei Darussalam	Morocco
Bulgaria	Mozambique
Burkina Faso	Myanmar
Burundi	Namibia
Cambodia	Nauru
Cameroon	Nepal
Cape Verde	New Caledonia
Cayman Islands	New Zealand
Central Africa	Nicaragua
Chad	Niger
Chile	Nigeria
Colombia	Norway
Comoros	Oman
Congo (Dem. Rep.)	Pakistan
Congo (Rep.)	Panama
Costa Rica	Papua New Guinea
Cote d'Ivoire	Paraguay
Croatia	Peru
Cuba	Philippines
Curacao	Poland
Cyprus	Portugal
Czech Republic	Qatar
Denmark	Romania
Djibouti	Russia
Dominica	Rwanda
Dominican Republic	Samoa
Ecuador	San Marino
Egypt	Sao Tome and Principe

El Salvador	Saudi Arabia
Eritrea	Senegal
Estonia	Serbia
Ethiopia	Seychelles
Falkland Islands	Sierra Leone
Fiji	Singapore
Finland	Slovakia
France	Slovenia
French Polynesia	Solomon Islands
Gabon	Somalia
Gambia	South Africa
Georgia	Spain
Germany	Sri Lanka
Ghana	St. Vincent and Grenadines
Gibraltar	St. Kitts and Nevis
Great Britain	St. Lucia
Greece	St. Maarten
Grenada	Sudan
Guatemala	Suriname
Guinea	Swaziland
Guinea-Bissau	Sweden
Guyana	Syria
Honduras	Taiwan
Hong Kong	Tajikistan
Hungary	Tanzania
Iceland	Thailand
India	Togo
Indonesia	Tonga
Iran	Trinidad and Tobago
Iraq	Tunisia
Ireland	Turkey
Israel	Turkmenistan
Italy	Turks and Caicos Islands
Jamaica	Uganda
Japan	Ukraine
Jordan	United Arab Emirates
Kenya	Uruguay
Kiribati	Uzbekistan
Korea	Vanuatu
Kosovo UNMIK*	Venezuela
Kuwait	Yemen
Kyrgyzstan	Zambia
Lao People's Dem Rep.	Zimbabwe